



Texas Juvenile Justice Department

Board Meeting

11209 Metric Blvd., Building H – Lone Star Conference Room

Austin, Texas 78757

Friday, March 27, 2015 – 9:00 a.m.

BOARD MEMBERS PRESENT:

Scott W. Fisher, Board Chairman
The Honorable John Brieden III
The Honorable Becky Gregory
The Honorable Jimmy Smith
The Honorable Laura Parker
MaryLou Mendoza
Scott Matthew
Jane Anderson King
Melissa Weiss
Calvin Stephens
Dr. Rene Olvera
Riley Shaw

BOARD MEMBERS ABSENT:

The Honorable Carol Bush

EXECUTIVE STAFF PRESENT:

Chelsea Buchholtz, Chief of Staff
Roland Luna, Chief Inspector General
Jeannette M. Cantu, Executive Assistant
Elaine Mays, Chief Information Officer
Lisa Capers, Senior Director of Administration & Training
Teresa Stroud, Senior Director of State Programs & Facilities
James Williams, Senior Director of Probation & Community Services
Carolyn Beck, Governmental Relations Specialist
Terri Dollar, Director of Monitoring & Inspections

Jill Mata, General Counsel
Royce Myers, Human Resource Director
Dr. Tushar Desai, Medical Director
Eleazar Garcia, Chief Auditor

OTHER GUESTS PRESENT:

Beverly Sumners, TJJD
April Jameson, TJJD
Tom Brooks, Harris Co.
Shirley Garcia, TJJD
Luther Taliaferro, TJJD
Kaci Singer, TJJD
Jeannette Lepe, TJJD
Vivian Cohn, TJJD
Katheryn Mattingly, TJJD
Kyle Dufour, TJJD
Sheri Short, Navarro College
Billie Jean Bram, Wharton Co.
Vikki Reasor, TJJD
Fred Meinke, TJJD
Sarah McCleary, TJJD
Sandy J. Pippin, Zapata Co.
Steve Roman, TJJD
Kevin DuBose, TJJD
Connie Simon, TJJD
Jerome Williams, TJJD
Ken Ming, TJJD
Ashley Kintzer, TJJD
Karol Davidson, TJJD
Karen Kennedy, TJJD
Pete Heller, TJJD
Ben Bellomy, TJJD
Angela Mitchell, TJJD
Xavier Casares, TJJD
Steven Vargas, TJJD
Doug Vance, Brazos Co.
Rebecca Walters, TJJD
Tyrene Green, G4S
Tracey Levins, TJJD
Ton Quiroz, Guadalupe Co.
Valerie Jones, TJJD
Jamyen Robinson-Hall, TJJD
Kristy Almager, TJJD
Nancy Slott, TJJD
Jim Southwell, TJJD
Kavita Gupta, TJJD
Scott Friedman, TJJD
Rod Venner, TJJD
Lucy Rodriguez, TJJD
Michael, Turner, TJJD
John Gonzales, TJJD

Call to Order

Chairman Fisher called the meeting to order at 9:02 a.m.

Prayer

Jerome Williams opened the meeting with a prayer.

Pledge

The Pledge of Allegiance was recited.

Discussion, consideration, and possible approval regarding excused absences

Ms. King moved to approve the absence of Judge Carol Bush. Ms. Mendoza seconded. The motion passed.

Public Comments

There were no public comments.

Discussion, consideration, and possible approval regarding the October 24, 2014 Board meeting minutes

Commissioner Smith moved to approve the minutes. Judge Brieden seconded. The motion passed.

Recognition of staff by Navarro College

Sherri Short presented a certificate of appreciation to TJJD employee Efrain Resendez for his dedicated and committed work behind the scenes to connect the youth through technology with college courses at Navarro College. She thanked him for his outstanding support for making this program work.

Report from the Safety and Security Committee

Mr. Shaw reported there was not a quorum present at the committee meeting.

Report from the Inspector General

Roland Luna, Inspector General, reviewed the investigative analysis through the 2nd quarter of FY 2015 reporting 6,370 Incident Reporting Center (IRC) Reports with 797 being retained by OIG for criminal investigation. He reported 215 TJJD active directives to apprehend issued, 18 OIG apprehensions and 135 apprehensions by other state agencies. He reported 97% of all cases are completed within 60 days of being received. Inspector General Luna updated the Board on OIG's activities in partnering with State Programs and Facilities to continue to have various types of searches. 2,665 searches have been

completed in an effort to eliminate contraband at facilities. He also provided a brief update on the status of the Security Intelligence Officer Program.

Review, discussion, and possible action regarding the Brown County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.644 related to spatial requirements for single occupancy housing units

Scott Friedman, Standards and Performance Administrator, presented the applicant's variance. The applicant was seeking a responsive variance from the standard requiring that the facility's individual resident sleeping quarters shall have a minimum ceiling height of 7.5 feet. The requested variance was in response to a finding of non-compliance issued by TJJD's Monitoring and Inspections Division during a schedule visit of The Oaks Brownwood Post Adjudication Facility. The applicant has presented information indicating that they are unable to meet compliance with the standard due to the financial hardship and overall program disruption that would be required for the necessary reconstruction efforts. TJJD staff recommends granting the variance. Ms. King moved to grant the variance. Ms. Mendoza seconded. The motion passed.

Review, discussion, and possible action regarding the Brown County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.666 related to exercise and day room areas

Mr. Friedman presented the applicant's variance. The applicant was seeking a variance from the standard requiring that the facility's day room areas provide a minimum of 35 square feet of space for every resident using the day room at one time, excluding lavatories, showers, and toilets. The requested variance was in response to a finding of non-compliance issued by TJJD's Monitoring and Inspections Division during a scheduled visit of The Oaks Brownwood Post Adjudication Facility. TJJD observed 23 residents in one of the day rooms; thus not allowing for a minimum of 35 square feet per resident. Mr. Shaw elaborated based on discussion from the Safety and Security meeting the previous day, voicing his concerns for safety of the youth. Mr. Green, a representative from The Oaks Brownwood, offered additional information based on the layout and design of the facility and intent for use of the day room. Chairman Fisher asked Teresa Stroud, Senior Director of State Programs and Facilities, for her input. She confirmed that when the facility was owned by the former Texas Youth Commission (TYC), The American Correctional Association did grant TYC a waiver for this same spatial requirement. Discussion ensued with Board members inquiring what kind of activities occur in that day

room and also some Board members voicing their concerns regarding the safety and security of the youth. Judge Parker moved to grant the variance. Commissioner Smith seconded. The vote was taken, 7 voting yes, 5 voting no. The motion passed.

Review, discussion, and possible action regarding the Harris County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.250 (related to external and perimeter security), Section 343.658 (relating to shower facilities), Section 343.660 (relating to toilet facilities), Section 343.662 (relating to washbasins), and Section 343.664 (related to drinking fountains)

Mr. Freidman presented the applicant's variance. The applicant was seeking multiple permanent variances to re-designate a pre-existing non-secure correctional facility for juvenile offenders to a juvenile post-adjudication secure correctional facility. The requested variances were specific to the Harris County Youth Village campus. Mr. Thomas Brooks, Harris County Chief Juvenile Probation Officer, stated the Youth Village has been in operation since 1973. It has always been registered as a non-secure facility and elaborated on the programming structure. He stated that to continue operating as they have since 1973, they would need to have these variance requests granted. Ms. King moved to grant the variance. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval to publish proposed revisions to 37 TAC §343.236 and §343.238, relating to Secure Storage Areas and Hazardous Materials, in the Texas Register for a 30-day public comment period

James Williams, Senior Director for Probation and Community Services, presented the proposed rules relating to secure storage areas and hazardous materials. He reviewed a summary of the revisions to the proposed rules. Staff requests approval to submit the proposed rules to the Texas Register for a 30-day public comment period. Ms. King moved to approve submittal of the proposed rule for public comment. Ms. Weiss seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of Certified Officers- Default Judgment Order for Charles Ford, Certification # 27432, Hays County

Kaci Singer, Staff Attorney, presented this default order, stating proper notice had been provided and no response was received. Mr. Matthew moved to accept the default order. Judge Brieden seconded. The motion passed.

Discussion, consideration, and possible approval to Set Aside the Default Order Revoking the Certification of Juvenile Supervision Officer Stanley Sneed, #12773, in Cause # DH665-11-8451, heard by the TJJD Board on January 20, 2012

Ms. Singer presented this request, stating on January 20, 2012 the TJJD Board signed an order revoking the certification of juvenile supervision officer Stanley Sneed. The order was based on the Proposal for Decision (PFD) of the State Office of Administrative Hearings (SOAH) Administrative Law Judge. According to the PFD, Mr. Sneed was given notice as required by law of the hearing, and he failed to appear. A default was granted and the order revoking his certification became effective February 2012.

In February 2015, Mr. Sneed contacted TJJD having just been informed of the revocation. He indicated he received no notice of the SOAH hearing. After reviewing agency records, it appeared that notice was provided to him at his place of employment address, of where he was no longer employed, rather than notice being sent to his place of residence on file. Because TJJD sent notice of the hearing to Mr. Sneed's former employer rather than to the address of record on file, TJJD did not comply with its own rules regarding service. As such, staff requests the Board set aside its previously issued order revoking the certification of Stanley Sneed. Judge Brieden moved to set aside the previously issued order. Mr. Shaw seconded. The motion passed.

New Appointments to the TJJD Advisory Council

Chelsea Buchholtz, Chief of Staff, reminded the Board this was an agenda item at the last Board meeting which was tabled to allow staff time to collect nominations for the vacating positions on the Council. Currently, the positions being vacated are Juvenile Court Judge and Chief Probation Officers from North Central Texas Chiefs Association, Panhandle Area Juvenile Probation officer's Association, South Texas Juvenile Chief's Association and Northeast Texas Juvenile Chief's Association. Additional nominations were received from the regional associations and those nominees' resume and/or bio has been provided in your board material. Discussion ensued among the Board members regarding an application and selection process in which they can use to choose from the nominees. Ms. Buchholtz offered that with additional time, staff could come back with a proposed process the board could then use to vote. Judge Brieden moved to table this agenda item. Mr. Stephens seconded. The vote was taken; 10 voting yes; 2 voting no. The motion passed.

Chairman Fisher called for a 10 minute recess. Mr. Shaw left the meeting at this time.

Report from the Programs Committee

Dr. Rene Olvera reported the Committee heard a wonderful presentation on the PAWS canine program which included a demonstration by a female offender and her canine. He reported three TJJD principals were present to discuss their daily operations and leadership activities at the state and national level.

Discussion, consideration, and possible approval to publish proposed revisions and rule review within 37 TAC Chapter 347, relating to Title IV-E Federal Foster Care Programs, in the Texas Register for a 30-day public comment period

Mr. Williams stated as part of the agency's rule review process, the Probation and Community Services Division has proposed changes to this rule. The TJJD Board has no discretion to change the requirements for participation in the federal Title IV-E reimbursement program, they are set by the federal Administration for Children and Families and the Texas Department of Family and Protective Services (DFPS). TJJD serves as an intermediary between DFPS and juvenile probation departments. Many of the Title IV-E requirements for juvenile probation departments are currently found in the TJJD Grant E document. TJJD will still be able to enforce the requirements of Grant E because it is incorporated by reference into the State Financial Assistance Contract. Staff requests the Board's approval to publish the proposed revisions in the Texas Register for a 30-day public comment period. Ms. King moved to approve submittal of the proposed rule for public comment. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval to publish revisions within 37 TAC Chapter 343, relating to Standards for Secluding Residents from the General Facility Population, in the Texas Register for a 30-day public comment period

Mr. Williams together with Doug Vance, Vice-Chair of the Advisory Council presented the proposed rule revisions, the major changes being:

- Limit disciplinary seclusion to 48 hours.
- Prohibit disciplinary seclusion for residents with serious mental illnesses.
- Require consultation with a mental health provider *before* imposing disciplinary seclusion for a resident designated as high or moderate risk for suicide.
- Require a formal disciplinary review *before* disciplinary seclusion is imposed.

- For all other sanctions for major rule violations, reduce the deadline for formal disciplinary review to *five days* after a resident's request (rather than 10 days).
- Remove the requirement for appeals of formal disciplinary reviews to include an in-person hearing.
- Create a new category of seclusion called "Safety-Based Seclusion" that allows residents to be secluded for safety-and-security reasons based on current behavior. (This type of seclusion is currently documented as Disciplinary Seclusion)
- Create a new category of seclusion called "Resident-Initiated Separation" that allows facilities to accurately document situations when a resident's seclusion is voluntary.

The staff requested the Board's approval to publish the proposed changes in the *Texas Register* for a 30-day public comment period. Dr. Olvera commended the staff and the Standards Committee for their work and clarity on these rules. Ms. Mendoza moved to approve submittal of the proposed rule revisions for public comment. Ms. Weiss seconded. The motion passed.

Discussion, consideration, and possible final adoption of revisions to 37 TAC §380.8787, relating to Sex Offender Risk Assessment

Ms. Stroud reported the 30-day public comment period in the Texas Register has ended; TJJD did not receive any comments on the proposed rule revisions. The staff is not recommending any further revisions. Mr. Stephens moved to adopt the final rule as proposed. Mr. Matthew seconded. The motion passed.

Report from the Executive Director

Ms. Buchholtz provided this report on behalf of David Reilly, Executive Director. She reported that Mr. Reilly is in his fifth week of radiation treatment at MD Anderson. He stays very connected with agency staff through phone calls and emails every day. He plans to return to work mid- April.

TJJDs response to the Council of State Governments (CSG) Report has been provided in your materials. This response will be publicized next week. By providing a response it's given TJJD an opportunity to operationalize the report and implement plans for improvement. The agency has collaborated with county offices in providing this response.

There are 66 days left of the 140 day legislative session. Mr. Reilly presented our proposed plan of smaller state regionalization facilities to House Appropriations and Ms. Buchholtz later presented the same plan to Senate Finance. HB 1586 was filed by Representative McClendon to support this plan. SB 1630 shifted that plan to county regionalization. This includes a family code change that would limit the type of commitments that counties could make. It is staff's understanding that this would come with funding; in fact staff are currently working on a \$24.5 fiscal note that is tied to this bill. Discussion ensued regarding the House Appropriations and Senate Finance Hearings and the pending TJJD Budget.

Bills regarding raising the age of jurisdiction will be heard next week. This also will come with a fiscal note tied to it. Ms. Buchholtz stated that staff have been holding a lot of meetings with legislative members and are seeing a lot of support for the agency. We are doing as much as we know how to do and are seeing results.

Mike Meyer, Chief Financial Officer, approached to address a question from Commissioner Smith as to whether \$24.5 million will be enough to fund SB 1630. The estimates are based on first biennium costs. The second biennium would be higher because we would be ramping up funding going to the counties. However, there is also the assumption that the ongoing costs would be offset to a greater degree by savings generated by the decreases in population from state programs.

Chairman Fisher commented that the interaction with staff and legislators seems to be much more cordial and less antagonistic this session, both in open meetings and in private meetings.

Ms. Buchholtz stated one thing the agency will be doing new is inviting a county to present their program at each board meeting. Because we are a merged agency, it only seems fitting to have our Board hear from the operations of our county partners as well as our state operations. Today, you will hear from Wharton County Juvenile Probation Department.

Ms. Buchholtz introduced Dr. Tushar Desai as the agencies new Medical Director. He is a child and adolescent psychiatrist.

She sadly announced the passing of Donald Brooks, Superintendent at Evins, who will be missed by all of us at TJJD. Our warm wishes are sent to Mrs. Brooks who is also a TJJD employee.

Agency facilities and parole offices are going to participate in Global Youth Service Day in April. For ten straight years, TJJD has organized a statewide coalition of youth serving partners for engaging in thousands of youth service hours.

Wharton County Juvenile Probation Department Program Presentation

Chief Probation Officer, Billie Bram, provided an overview of the local program services provided in Wharton County from a small county perspective and how state funding is used to divert youth from state facilities.

Legislative Update

Carolyn Beck, Governmental Relations Specialist, provided an overview of the summary of high interest bills the agency is tracking this session. She said she would email an updated version of the summary document provided later today and would also include hearing notices for the coming week.

Report from the Advisory Council

Doug Vance, Vice-Chair of the Advisory Council, referred to the handout provided to the Board. The Council met twice during the month of March and received reports from Ms. Buchholtz and Mike Meyer regarding the agency's appropriations process. She informed the Council that the agency is introducing three components in discussions being held with legislators, and they include; empowering counties to keep more juveniles locally; expanding TJJD residential treatment providers over the next biennium to as many as 200 juveniles; and to create regional concept that will involve the sharing of resources within counties in their respective regions. Mike Meyer informed the Council that House Appropriations has decreased funding in Grant A Basic Supervision, by approximately \$10 million; a potentially 5% reduction for counties. The Standards Sub-Committee has started work on the TAC standards Chapter 341. The standards to be reviewed are the probation and case management standards. Ms. Medina provided invited testimony at the Juvenile Justice and Family Issues Committee Hearing on February 18, 2015 regarding the role of the Advisory Council on Juvenile Services. The Advisory Council is scheduled to meet again on April 17, 2015.

Report from the Administrative Investigations Division

Kevin DuBose, Director of Administrative Investigations, referred to page 59 and 60 of the board materials, comparing FY 2015 to FY 2014 county and state summary comparisons of total reports received, total investigations completed and total dispositions. He highlighted that of the 275 state cases closed during FY 2015, 248 were closed within the 30 – 90 day window time frame.

Report from the Trust Committee

Commissioner Smith stated the Committee discussed the status of the C5 lease negotiations which should be complete by the next Board meeting. Staff will be seeking an Interagency Agreement with the General Land Office (GLO) to seek a Request for Qualifications (RFQ) for the appraisal process of the Parrie Haynes Ranch.

Discussion, consideration and possible approval regarding board authorization for the Executive

Director to appoint the Public Funds Investment Officer for the John C. Wende and Parrie Haynes Trust Funds

Mr. Meyer stated historically, the Board has designated a specific employee of TJJJ as the Public Funds Investment Officer (PFIO) to act on the Board's behalf in conducting these activities. TJJJ's previous PFIO retired; staff recommends the agency's Lead General Ledger Accountant be the new designee. By assigning the designation to a position rather than a named individual, the designation becomes transferrable in the event of a retirement or separation. Judge Parker moved to approve designating the Public Funds Investment Officer. Ms. Mendoza seconded. The motion passed.

Report from the Finance and Audit Committee

Ms. King reported there was not a quorum present at the committee meeting.

Discussion, consideration, and possible approval regarding the Ron Jackson State Juvenile Correctional Complex Audit

Eleazar Garcia, Chief Auditor, presented the draft audit report. The overall objective for this audit was to determine if controls related to youth rights, safety, and business operations are in place at the facility level. Controls in the following area were found functioning as intended. Managing the youth grievances process meets requirements. Staffing ratios were observed to comply with agency guidelines. Dorm Supervisors and Manager of Operations provided guidance to the case management

staff to meet case load responsibilities. Controls could be strengthened to ensure compliance with the agency's policies and procedures and provide more cost-effective practices. A periodic review of hearing manager training attendance documentation could ensure compliance with the Level II Due Process Hearing training requirement. A periodic reconciliation could ensure that documentation of gasoline distribution from the storage tanks is accurate and complete. Management concurred with the recommendations found in the audit. Mr. Stephens moved to approve the audit report. Ms. King seconded. The motion passed.

Discussion, consideration, and possible approval regarding the Fleet Management Audit

Mr. Garcia presented the draft audit report. The overall objective for this audit was to determine whether controls over Fleet Management are in place. The scope included vehicle maintenance and review of fleet expenditures paid through either purchase orders or Voyager cards. Two facilities were singled out for strengths and best practices: McLennan County State Juvenile Correctional Facility manages a detailed vehicle list that tracks vehicle information and reports vehicle status and McFadden Ranch Halfway House establishes a maintenance schedule for monitoring preventive maintenance. Controls could be strengthened to ensure compliance with laws, regulations and agency policies, and to provide more cost-effective practices. Establishing a monitoring process for Alternative Fuel program could ensure compliance with regulatory requirements. Improving the process for capturing all fleet related expenditures could ensure proper internal and external reporting of the expenditures. Requiring periodic review of Voyager card transactions could ensure amounts are supported. Establishing a periodic vehicle inspection process could ensure required maintenance, registrations, and safety inspections are completed in a timely manner. Establishing a process to track vehicle warranties could achieve maximum savings on maintenance and repair for the agency. A periodic review of personnel with user access rights to the Texas Fleet Management System (TxFS) could ensure only appropriate, authorized TJJD staff have access to the system. Recommendations to strengthen controls and improve accountability were provided to management. Management concurs with the recommendations. Chairman Fisher stated there were some things in this report that were concerning and discussed in detail in the Finance and Audit Committee meeting. Direction was provided to staff and we expect to see some improvement. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed.

Closed Session – Executive Session

a) **§551.071 consultation with attorney (see footnote)**

b) **§551.072 deliberation regarding real property**

Chairman Fisher recessed the open meeting and the Board convened in closed session.

Reconvene in open session, discussion, consideration, and possible approval regarding matters deliberated in closed Executive Session, if applicable

Chairman Fisher reconvened the open meeting.

Discussion, consideration and possible approval of a resolution to approve the settlement agreement with Rodney Pegram

Judge Parker moved to approve to the delegation of authority to TJJD Executive Director to approve the settle agreement with Rodney Pegram. Mr. Matthew seconded. The motion passed.

Adjourn

Chairman Fisher adjourned the meeting at 12:26 a.m